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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self- Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005 (Filed November 8, 2012)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON PROPOSED DECISION REVISING THE SELF-GENERATION INCENTIVE PROGRAM PURSUANT TO SENATE BILL 861, ASSEMBLY BILL 1478, AND IMPLEMENTING OTHER CHANGES

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission), Southern California Edison Company (SCE) hereby submits its comments on the proposed decision (PD) revising the Self-Generation Incentive Program (SGIP) pursuant to Senate Bill (SB) 861, Assembly Bill (AB) 1478, and implementing other changes.

I.

INTRODUCTION AND RELEVANT BACKGROUND

On December 17, 2015, the Commission issued D.15-12-027,[1] which ordered the SGIP Program Administrators (PAs)[2] to release 50 percent of the 2016 SGIP program funds at the start of 2016 for new applications, with the balance of the funds subject to revised program rules. In compliance with the decision, the program opened on February 23, 2016. Applicants utilized a web portal operated by Energy Solutions to submit their SGIP applications. After the opening, it

[1] D.15-12-027, Ordering Paragraph 1, p. 12.

[2] The PAs are SCE, Pacifc Gas and Electric Company, Center for Sustainable Energy, and San Diego Gas & Electric Company.

became apparent that a disproportionate number of the first applications received were submitted by only a couple of parties, one of which was Stem, Inc. (Stem).

Subsequently, on March 8, 2016, Maas Energy Works (Maas) filed a Petition for Modification (PFM) of D.15-12-027, seeking additional information on what went wrong with the application process, and recommending that funds be reallocated to the next eligible application if irregularities were found in the application process.

A memo prepared by Energy Solutions and distributed to the parties after Maas filed its PFM suggested that the conduct of certain entities, including Stem, in submitting their applications may have had a significant impact on the operation of the Energy Solutions site and on other entities' ability to submit their applications. Neither the PAs nor the Commission have initiated a fact finding process in which Stem and other entities would be given the opportunity to address the content of Energy Solutions' memo.

Instead, to expeditiously resolve the controversy around the opening so that the PAs could distribute program funds to all parties whose applications were accepted, Stem sent a letter to the Commission and the service list on May 9, 2016, offering to voluntarily cancel 50 percent of the manufacturer concentration limit and to take no action to pursue any rights it may have with respect to the cancelled reservations, provided that the cancelation (1) would fully and finally resolve all matters arising out of the February 23, 2016 opening, and (2) the PAs would refrain from (a) accusing Stem of wrongdoing in connection with Stem's conduct during the February 2016 SGIP opening or (b) pursuing further action against Stem on the basis of any purported wrongdoing in connection with the February 2016 SGIP opening.[3]

The PD proposes to deny Maas' PFM and to adopt Stem's offer to "voluntarily cancel certain of its reservation request applications such that the retained incentives on projects for

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[3] Stem May 9, 2016 Letter at p. 2 (stating "Stem agrees not to pursue its further rights to the cancelled reservations or other claims so long as such Commission action remains final and unchanged and is observed, and Stem is not subject to future comment on these matters by the Program Administrators.").

which Stem is the manufacturer totals 50 percent of manufacturer concentration limit published on February 29, 2016 ($17,815,431),"[4] or approximately $8.9 million as a resolution of the matters arising out the opening.

As discussed below, the figures supplied in Stem's letter do not correctly reflect its actual fundable projects. The final decision should reflect correct figures. In addition, the non-disparagement provision in the letter is not specific enough to provide Stem with the protection it desires and is so broad and ambiguous that parties could incorrectly interpret it as not allowing the PAs to comment on any matter involving Stem. Accordingly, SCE respectfully requests that the Commission adopt an ordering paragraph that incorporates SCE's more specific language. In telephonic and e-mail correspondence with Stem's counsel on May 10, 2016, counsel for Stem indicated that it agreed with SCE's proposed modified language.

SCE also generally supports the other aspects of the PD's proposals, but recommends that the Commission's final decision modify or clarify certain provisions. First, SCE recommends that the Commission further study SGIP incentive levels for energy storage technologies. Second, the PD proposes to adopt a cap on the incentives an individual developer or installer may receive in each step of the program, *measured on a statewide basis*.[5] To avoid uncertainty for market participants and administrative burden for the PAs, SCE recommends that the final decision provide that the cap be measured on a service area, not statewide, basis. Third, the PD proposes that projects receiving SGIP funds should also be permitted to participate in demand response (DR) programs.[6] SCE agrees, but the final decision should make it clear that only customers and projects participating in utility tariffed DR programs are eligible to receive SGIP incentives. Finally, the PD proposes to establish a 10 percent set-aside of the generation budget component of SGIP for renewable projects. The final decision should clarify what percentage of gas projects must be biogas to be considered "renewable."

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4 Stem, Inc.'s Motion for Administrative Notice, Attachment 2, p. 2.
5 PD, pp. 33-34.
6 PD, pp. 31-32.

Appendix A contains redline edits to the PD's proposed findings of facts and conclusions of law.

II.

<u>DISCUSSION</u>

A. <u>The Final Decision Should Adopt Correct Funding Data and Non-Disparagement Language for Stem's Voluntary Cancellation</u>

Stem submitted applications for $15,060,122 in fundable SGIP projects. Canceling half the projects would therefore mean that Stem would retain $7,530,061 in projects. Stem's letter, however, does not use these figures. Instead, Stem's letter offers to cancel 50 percent of the <u>*manufacturer concentration limit*</u> of $17,815,431, which means it would retain $8.9 million in projects.[7] Stem, however, did not reach the manufacturer concentration limit. To determine which projects are fundable, the PAs reviewed the time-stamped list of applications received. Upon reaching the application that reached the available funding level, the PAs drew a line, with projects above the line being fundable, and those below it subject to cancellation. Stem projects beyond the $15,060,122 are not fundable in this round of SGIP funding.[8]

Stem's offer to cancel half the manufacturer concentration limit amounts to an offer to cancel 40 percent, not 50 percent, of its fundable projects. If the Commission adopts the 40 percent cancellation as a full and final resolution, Stem will retain 60 percent of its fundable projects, which represents roughly $1.5 million more in funding than it would if it cancelled 50 percent of its fundable projects. Regardless of whether the Commission requires Stem to cancel 50 percent or 40 percent of its fundable projects, the final decision should reflect the correct

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[7] The manufacturer concentration limit is posted on the SGIP database to give applicants the visibility of whether the total incentive amount of their submitted applications has reached, or is near to reaching, the published limit.

[8] It is unclear to SCE why Stem offered to cancel 50 percent of the manufacturer concentration limit of $17,815,431 or believed that it had hit the manufacturer concentration limit when it had not.

figures. In addition, it should only permit Stem to cancel and retain fundable projects. Projects that were not fundable in the first place should not become viable now by virtue of Stem's offer.

If the Commission adopts Stem's offer, "Stem agrees not to pursue its further rights to the cancelled reservations or other claims so long as such Commission action remains final and unchanged and is observed, and Stem is not subject to future comment on these matters by the Program Administrators." SCE does not agree to the non-disparagement language. It is not specific enough to clearly provide Stem with the protection it desires and is so broad and ambiguous that parties could incorrectly interpret it as not allowing the PAs to comment on any matter involving Stem. Accordingly, SCE respectfully requests that the Commission adopt an ordering paragraph that reads as follows:

> Stem agrees not to pursue any rights it may have to the cancelled reservations or other claims so long as such Commission action remains final and unchanged and is observed, and the Program Administrators agree to refrain from (1) accusing Stem of wrongdoing in connection with Stem's conduct during the February 2016 SGIP opening or (2) pursuing further action against Stem on the basis of any purported wrongdoing in connection with the February 2016 SGIP opening.

In telephonic and e-mail correspondence with between SCE's counsel and Stem's counsel on May 10, 2016, counsel for Stem indicated that Stem was amendable to SCE's proposed modified language.

B. Appropriate SGIP Incentive Levels for Energy Storage Technologies Should be Studied Further

The PD establishes incentive levels for large-scale and small-scale energy storage technologies.[9] Based on the speed with which incentives were reserved in the February 2016 program opening and discussions with the other SGIP PAs, these incentives are too high for the new incentive structure. SCE therefore recommends that a new incentive structure be adopted.

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[9] PD, Table 2, p. 4.

The proper incentive structure for SGIP energy storage projects is a step-down, or tiered, incentive based on the capacity provided by the project. SCE developed a model to determine the appropriate incentive level for energy storage projects, but was unable to resolve the relevant questions prior to the filing date of these comments. SCE recommends that the Commission undertake a study to determine the appropriate incentive levels. Alternatively, the Commission could direct the PAs to use their SGIP project data to initiate the study themselves. In addition to the study, SCE recommends a workshop to determine the appropriate incentive amount for each capacity level.

C. **To Avoid Confusion and Administrative Burden, the Final Decision Should Provide that the Developer Cap Will Be Measured by Territory**

The PD proposes that the Commission adopt a cap on the incentives an individual developer or installer may receive in each step of the program, *measured on a statewide basis*.[10] This approach may result in uncertainty for industry participants, because they will not always be sure of how close they are to the cap. It will also create administrative burden by requiring the PAs to continuously update each other on where each developer stands in each PA service area, aggregate the data, and then inform all stakeholders. This process may delay the data getting to industry participants. Administering the cap on the basis of each PA's service area, however, will provide more granular information, allow developers to know exactly where they stand in each PA's service area at any given time, relieve administrative burden, and promote efficiency.

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[10] PD, pp. 33-34.

D. The Final Decision Should Clarify That Only Customers and Projects Participating in Utility Tariffed DR Programs are Eligible to Receive SGIP Incentives

The PD permits projects receiving SGIP funds to also participate in DR programs.[11] SCE agrees, but recommends that the final decision make it clear that only customers and projects participating in utility tariffed DR program are eligible to receive SGIP incentives.

SCE customers participating in DR through contracts signed in SCE's DR solicitations, (*e.g.*, Preferred Resources Pilot, Local Capacity Resources, Aggregator Managed Portfolio), should not be eligible to receive SGIP incentives because they already receive financial compensation that is designed to subsidize necessary technology installations. When parties participate in such solicitations, the pro forma agreements note that costs of technologies and other business costs should be included in the resource price and business case calculations. Such parties should not be permitted to double dip at utility customer expense.

SCE supports providing SGIP incentives to customers that are participating in SCE tariffed DR programs. SCE's tariffed DR programs differ from solicitations for DR resources because the DR incentive price is set by the utility and the compensation is for the action taken, not for the installation of an enabling technology. SCE therefore recommends that the final decision make the requested clarification.

E. The Final Decision Should Clarify What Percentage of Gas Projects Must Be Biogas to Be Considered "Renewable"

The PD establishes a set-aside of 10 percent of the generation budget component of SGIP for renewable projects.[12] Under current SGIP rules, a project must use at least 75 percent biogas to be considered renewable. However, it is unclear what portion of biogas a gas generator must use to be considered renewable under the new SGIP rules. SCE recommends that the

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[11] PD, pp. 31-32.
[12] PD, p. 22.

Commission clarify whether this percentage is changing or remaining the same under the new SGIP rules. In setting the percentage, the Commission should seek to avoid quickly exhausting the renewable generation set-aside funds and to fund projects with the most environmental benefit.

III.

CONCLUSION

SCE appreciates the opportunity to provide these comments and encourages the Commission to adopt the PD with SCE's proposed modifications.

Respectfully submitted,

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Appendix A

SCE Proposed Modifications to Proposed Decision Adopting Bridge Funding

For 2017 Demand Response Programs and Activities

SCE'S PROPOSED MODIFICATION TO THE PROPOSED DECISION ADOPTING BRIDGE FUNDING FOR 2017 DEMAND RESPONSE PROGRAMS AND ACTIVITIES

Proposed text deletions are in bold strikethrough (**~~abcd~~**)
Proposed text additions are in bold double-underline (**abcd**)

Reference	Proposed Modification
New Finding of Fact	**Stem submitted fundable SGIP applications totaling $15,060,122.**
New Finding of Fact	**Stem offered to voluntarily cancel certain of its reservation request applications such that the retained incentives on projects for which Stem is the manufacturer totals 50 percent of manufacturer concentration limit published on February 29, 2016 ($17,815,431).**
New Finding of Fact	**Stem's offer results in retention of 60 percent of its fundable SGIP applications, or approximately $8.9 million.**
New Finding of Fact	**Stem agrees not to pursue any rights it may have to the cancelled reservations or other claims so long as such Commission action remains final and unchanged and is observed, and the Program Administrators agree to refrain from (1) accusing Stem of wrongdoing in connection with Stem's conduct during the February 2016 SGIP opening or (2) pursuing further action against Stem on the basis of any purported wrongdoing in connection with the February 2016 SGIP opening.**
New Finding of Fact	**An installer/developer cap based on PA service area will relieve administrative burden and result in an overall more efficient program.**
Finding of Fact 33, p. 60	**~~The current policy of a~~** **~~state-wide~~** **A** cap for developers **in each PA's service area** is most consistent with the policy goals of the program.
Conclusion of Law 28, p. 68	The **~~current~~** policy of a **~~state-wide~~** cap for developers **in each PA's service area** is most consistent with the policy goals of the program and is **~~retained~~** **adopted**.

Finding of Fact 30, p. 60	Apart from the fossil-fueled generation technologies that are currently excluded from demand response participation or that may be excluded in the future, **<u>and apart from customers participating in the utilities' DR solicitations,</u>** it is reasonable to permit projects receiving SGIP funds to provide demand response services.
Conclusion of Law 25, p. 68	Continuing to allow dual participation in SGIP and demand response programs, with certain noted fossil-fuel exceptions, **<u>as well as exceptions for customers participating in a utility DR solicitation,</u>** is adopted.